



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: June 4, 2008 REPORT NO: 08-084
ATTENTION: Council President Scott Peters and City Council
Agenda of June 10, 2008
SUBJECT: Fluoridation Funding Offer from First 5 Commission
REFERENCE: None

REQUESTED ACTION:

1. Acknowledge receipt of letter from First 5 Commission offering up to \$3,927,016 for the purpose of fluoridating the public water supply in the City of San Diego.
2. Authorize the Mayor or his designee to begin negotiations with First 5 Commission to determine the funding mechanism, costs, schedule and other elements necessary to implement the fluoridation of the City water supply.

STAFF RECOMMENDATION: Approve the requested action.

SUMMARY: The City has received a letter from the First 5 Commission of San Diego County (Commission) offering up to \$3,927,016 for the purpose of fluoridating the public water supply in the City of San Diego. The Commission was established by the California Children and Families Act in 1998 and is responsible for implementing the Act by, among other activities, funding programs and activities that promote early childhood development from the prenatal stage to age five. The Commission's effort are funded through revenue generated as a result of a tax imposed on all tobacco products. The Commission's offer is for full funding of the capital costs and up to two years of operating expenses necessary to implement fluoridation at each of the City's three water treatment plants.

Background

In 1995, State law amended the California Safe Drinking Water Act to require water providers with over 10,000 service connections (which includes the City), to fluoridate their water supplies. However, a public water system is exempt from fluoridating until sufficient outside funding is available. An outside source is generally defined as a source other than rate payers, bond holders or any other fees levied by the water system. The State legislation is preemptive of any local ordinances, regulations or initiatives. Both the California Attorney General and the Office of the City Attorney opined that when sufficient funding becomes available, San Diego Municipal Code Section 67.0101, which prohibits the City from fluoridation, would be preempted by state law.

In light of the current funding offer from the Commission, the City Attorney's Office has concluded the exemption under which the City has operated would no longer apply. Moreover, the State Department of Public Health (DPH), the agency empowered to enforce provisions of the State law, has issued a letter to the City acknowledging the offer of funding from the Commission and has formally withdrawn the City's exemption from fluoridation (see attached). This action by the DPH triggers the start of a two-year timeline the City is required to follow for the design and construction of the necessary infrastructure for fluoridation.

Upon completion of construction, the City will be required to submit to DPH an application to amend the current water supply permit to allow for the introduction of fluoride. DPH will review the City's application, and, after a public hearing, will either deny or approve the application, with specific requirements regarding future monitoring, recordkeeping, reporting and notification procedures.

Current Fluoridation within the City

Currently, the Water Department does not fluoridate water for its customers. However, last summer, the Metropolitan Water District of Southern California (MWD), the wholesale water supplier for Southern California, including San Diego, announced that it would begin fluoridating treated water delivered to all its customers. Only 9 percent of the City's treated water supply is provided by MWD, through the County Water Authority. The remaining 91 percent of treated water is supplied by the City's three treatment plants. Due to operational constraints and maintenance requirements of the City's water distribution system, the City must continue to receive imported treated water from MWD and CWA. As a result, portions of the City began receiving fluoridated water in December 2007, when MWD's Skinner Plant began fluoridation.

As part of the MWD fluoridation action, region-wide public outreach was performed by impacted water agencies, including the City of San Diego. In addition, the City developed an interactive Web site for the public which outlined the level of fluoridation expected within the City by zip code. In this manner, individual customers have been able to tell how much fluoride would be expected based upon MWD's fluoridation. A similar public outreach would be performed as a result of the current offer from the Commission

FISCAL CONSIDERATIONS: None associated with this action. The resulting contract with the Commission will specify that funding for full design/construction costs and 2 years of operation and maintenance will be provided by the Commission. Negotiations will include establishing the mechanism for "front funding" project expenditures by the Commission; developing the public notification and outreach components required to inform citizens of the forthcoming fluoridation effort; and finalizing project costs, schedules and project management components for the design and construction of fluoride infrastructure at each plant. The City need not operate the fluoridation system once it is installed unless outside funds are thereafter provided in any fiscal year to cover noncapital and maintenance costs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None with this action. As part of the implementation of this project, the City will provide a variety of public notifications to rate payers, citizens, hospitals, dental associations, and other stakeholders.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: All customers of the City of San Diego Water Department, public health professionals, rate payers, and the Department of Public Health.



Alex Ruiz
Assistant Water Department Director



J. M. Barrett
Public Utilities Director

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Attachments:

1. First 5 Commission Letter – Funding Offer (2/29/08)
2. Department of Public Health Letter - Removal of Fluoridation Exemption (5/13/08)